

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 3718	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/IB2005/000731	International filing date ( <i>day/month/year</i> ) 21 March 2005 (21.03.2005)	Priority date ( <i>day/month/year</i> ) 26 March 2004 (26.03.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant SUPERSPRINT S.r.l.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 6 sheets, including this cover sheet.  
  
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                     |              |   |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report   |
| <input checked="" type="checkbox"/> | Box No. II   | Priority  |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |
| <input checked="" type="checkbox"/> | Box No. VII  | Certain defects in the international application  |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70	Date of issuance of this report 26 September 2006 (26.09.2006)  Authorized officer  <div style="text-align: center; font-weight: bold;">Cecile Chatel</div>  e-mail: pt13@wipo.int
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# PATENT COOPERATION TREATY

REC'D 06 JUN 2005

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From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/B2005/000731

International filing date (day/month/year)  
21.03.2005

Priority date (day/month/year)  
26.03.2004

International Patent Classification (IPC) or both national classification and IPC  
F01N1/08, F01N1/12

Applicant  
SUPERSPRINT S.R.L.

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/IB2005/000731

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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. II Priority**

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1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43*bis*.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/B2005/000731

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	2-7
	No: Claims	1
Inventive step (IS)	Yes: Claims	2-7
	No: Claims	1
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

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**Box No. VII Certain defects in the International application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Re Item V.**

1. Reference is made to the following document:

D1 : FR 1 258 458 A

## **2. Novelty and Inventive Step**

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

### **2.1. Novelty of Independent Claim 1**

Document D1 discloses (the references in parentheses applying to this document):

A muffler (see figure 2) for exhaust systems for vehicles, comprising a tubular shell that is internally lined with noise-deadening material and is closed at its ends by a front wall provided with an inlet connectable to receive exhaust gas and a rear wall, a first chamber (1a) and a second chamber (1b) being defined within the tubular shell, which are separated by a transverse wall having an inlet opening and an outlet opening, a perforated (3) inlet pipe (2) extending within the first chamber (1a) from the inlet to the inlet opening, gas-piping means extending within the first chamber (1a) and having one end open to said outlet opening, and the other end connectable to exhaust pipes, wherein said inlet opening and outlet opening are substantially equal in diameter to the pipe (2) and are connected to each other via a toroidal duct that is arranged within the second chamber (1b) and is substantially equal in diameter to the inlet pipe (2).

In other words, the perforated inlet pipe, the toroidal duct and the gas-piping means are sections of the u-shaped pipe (2) having all along its length a substantially constant diameter.

Thus, the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

**2.2. Novelty and Inventive Step of Dependent Claims 2 to 7**

The combination of the features of dependent claims 2 to 7 are neither known from, nor rendered obvious by, the available prior art.

- 2.3. The subject-matter of claims 1 to 7 is considered to have an industrial application (Article 33(4) PCT).

**Re Item VII.**

3. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.

**Re Item VIII.**

4. According to Merriam-Webster's Collegiate Dictionary, the term "toroidal" is defined as follows: "relating to, or shaped like a torus or toroid: doughnut-shaped".

Therefore, the term "toroidal duct" renders the wording of independent claim 1 somewhat unclear, since the muffler being the subject of the present application does not show any doughnut-shaped part. What seems to be meant is that the duct connecting the inlet pipe and the gas piping means is "U-shaped".

5. The vague and imprecise statement "changes within the scope of the inventive concept" in the description on page 3, last paragraph, implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.